## IN THE UNITED STATES DISTRICT COURT FOR THE MIDDLE DISTRICT OF GEORGIA VALDOSTA DIVISION

| ANDREA MANRIQUE YARURO,        | § |                       |
|--------------------------------|---|-----------------------|
|                                | § |                       |
| Plaintiff,                     | § | NO. 7:22-cv-00039-WLS |
|                                | § |                       |
| v.                             | § |                       |
|                                | § |                       |
| UNITED STATES OF AMERICA, U.S. | § |                       |
| IMMIGRATION AND CUSTOMS        | § |                       |
| ENFORCEMENT, LASALLE SOUTHEAST | § |                       |
| LLC, DAVID PAULK, HOWARD,      | § |                       |
| McMAHAN, AMBER HUGHES,         | § |                       |
| "FNU" BATTLE; UNNAMED ICDC     | § |                       |
| OFFICERS ##1-5, "FNU" WATSON,  | § |                       |
| "FNU" CHAPPELLE,               | § |                       |
|                                | § |                       |
| Defendants.                    | § |                       |
|                                |   |                       |

## DEFENDANTS OFFICER CORETTA BATTLE AND OFFICER ERICA CHAPPELLE'S RULE 12(b)(5) AND RULE 12(b)(6) MOTION TO DISMISS

NOW INTO COURT, through undersigned counsel, comes Defendants, Officer Coretta Battle ("Officer Battle") and Officer Erica Chappelle ("Officer Chappelle") (collectively, the "Officers"), specially appearing for the purpose of contesting sufficiency of service, and respectfully submit that the claims asserted by the Plaintiff are due to be dismissed because the Plaintiff failed to serve the Officers within the time required by Fed. R. Civ. P. 4(m), and thus, the Court lacks personal jurisdiction over the Officers on Plaintiff's claims against them. Additionally, Plaintiff has failed to sufficiently allege her intentional infliction of emotional distress claim against Officer Chappelle under Rule 8. Accordingly, the claim against Officer Chappelle is due to be dismissed because the conclusory allegations fail to state a claim with facial plausibility. Filed in support of this motion are the following exhibits:

Exhibit A: Packet delivered to ICDC on May 16, 2022, containing incorrectly

addressed Requests for Waivers of Service of Process; and

Exhibit B: August 11, 2022 J. Rouse correspondence with J. Jong.

For these reasons, and as is more fully explained in the accompanying memorandum in support, pursuant to Fed. R. Civ. P. 12(b)(5) and Fed. R. Civ. P. 12(b)(6), Defendants, Officer Coretta Battle, and Officer Erica Chappelle, respectfully request that this Motion to Dismiss be granted and that Plaintiff's claims against the Officers be dismissed.

This, the 7th day of September, 2022.

Respectfully submitted,

## **DEFENDANT CORETTA BATTLE and OFFICER ERICA CHAPPELLE**

By: <u>s/John T. Rouse</u> One of its Attorneys

## OF COUNSEL:

John T. Rouse (GA Bar No. 868514) McGLINCHEY STAFFORD, PLLC 1020 Highland Colony Parkway, Suite 702 Ridgeland, Mississippi 39157 Tel: (769) 524-2329 | Fax: (601) 608-7871 Email: jrouse@mcglinchey.com Counsel for Defendants Coretta Battle and Erica Chappelle **CERTIFICATE OF SERVICE** 

In accordance with the Middle District of Georgia's electronic filing procedures, I hereby

certify that I electronically filed the foregoing with the Clerk of Court by using the CM/ECF

system. A Notice of Electronic Filing will be sent by the Court to all counsel of record who have

consented to email notification and electronic service. This document is available for viewing and

downloading from the Court's ECF system. I hereby certify that if a party's counsel of record does

not participate in Notice of Electronic Filing, I have served a copy on the party's counsel of record

either by hand delivery, facsimile, electronic mail or placing same in the U.S. Mail, postage

prepaid, on this 7th day of September, 2022.

/s/John T. Rouse

John T. Rouse

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